

**ADDENDUM TO NOVEMBER 12, 2008 COAH DECISION IMPOSING SCARCE  
RESOURCE RESTRAINTS ON HIGHLANDS REGION MUNICIPALITIES**

WHEREAS, on November 12, 2008, a Scarce Resource Restraint (Restraint) was issued by the Council on Affordable Housing (Council), upon all municipalities in the Highlands Region under COAH's jurisdiction; and

WHEREAS, the scope of the restraint applies to any and all municipal actions associated with development approvals, water allocation and wastewater allocation but not to any residential development that includes at least a 20 percent set-aside on-site for affordable housing or any activity that is formally determined to be exempt from the Highlands Act or is formally granted a waiver under the Highlands Act or the RMP; and

WHEREAS, the restraint shall remain in full force and effect in each affected municipality until such time as the municipality receives substantive certification from COAH or demonstrates to COAH that appropriate measures have been taken to preserve scarce land, water, and sewer resources and that same have been dedicated on a priority basis for the production of affordable housing; and

WHEREAS, COAH issued two letters setting forth specific exemptions from the Restraint, dated December 17, 2008 and April 14, 2009; and

WHEREAS, the exemptions listed in that letter are as follows:

1. Projects consisting of a 20% (or greater) affordable housing setaside;
2. Construction of single or two family homes on existing lots;
3. Issuance of a building permit where the project has already received all necessary permits and approvals at the municipal and state level as of November 12, 2008, or where a project has received municipal approvals and does not require state permits;
4. Projects that have been formally granted a waiver under the Highlands Act or the RMP;

5. Projects that have been formally deemed exempt by the Highlands Council or NJDEP;
6. Reconstruction of buildings within 125% of the footprint that existed as of November 12, 2008;
7. Improvements to single or two-family homes in existence as of November 12, 2008, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool or septic system;
8. Improvements to non-residential structures used as a place of worship, school or hospital in existence as of November 12, 2008, including but not limited to new structures, an addition to an existing building or structure, or a sanitary facility;
9. Woodland and Forest management plans: An activity conducted in accordance with an approved woodland management plan; or an approved wetland mitigation bank;
10. Construction or extension of trails with non-impervious surfaces on publically owned lands or on privately owned lands where there is a conservation or recreational use easement;
11. Repair of transportation or infrastructure systems, including the routine maintenance and operation, rehabilitation, preservation, reconstruction, or repair of transportation or infrastructure systems by a State or local government entity provided the activity is consistent with the goals of the Highlands Act;
12. Transportation safety projects, including bicycle and pedestrian facilities by a State or local government entity provided the activity is consistent with the goals of the Highlands Act;
13. Public utility lines, rights of way or systems, including the routine maintenance and operations, rehabilitation, preservation, reconstruction, repair or upgrade of public utility lines, rights of way or systems by a public utility, provided the activity is consistent with the goals and purposes of the Highlands Act;
14. Reactivation of rail lines and rail beds existing as of November 12, 2008;
15. Construction of a public infrastructure project prior to November 12, 2008 or a capital improvement project approved by public referendum prior to November 12, 2008;
16. Mining, quarrying, or production of ready mix concrete, bituminous concrete, or Class B recycling materials occurring on a site existing on November 12, 2008;
17. Remediation of any contaminated site pursuant to P.L.1993, c.139 (C.58:10B-1 et seq.);

18. Any lands of a federal military installation existing as of November 12, 2008;
19. Cell phone antennae on existing structures;
20. Non-residential development applications seeking to re-occupy existing non-residential spaces;
21. Issuance of a certificate of occupancy for a preexisting structure;
22. Extensions of any prior approvals, where there is no change in the terms of the approval, or where the change is covered by the exemptions listed here;
23. Changes of occupancy;
24. Interior or exterior renovations;
25. Demolition of non residential structures;
26. Requests for interpretations;
27. Permits for signage;
28. Applications for site improvements that are not related to new construction or development, including retaining walls, HVAC work and handicapped access;
29. Appeals of decisions by the Administrative Officer;
30. Applications for subdivisions not related to new construction or development (e.g., lot line adjustments, consolidations);
31. Applications for development required by an Order of the Fire Marshal, Construction Official, or Code Enforcement Officer to address conditions cited pursuant to the Uniform Fire Code, the Uniform Construction Code, or the adopted Property Maintenance Code, or other standards, for remediation of conditions affecting public health, public or occupant safety, structural safety, or accessibility hazards;
32. Construction of accessory structures only;
33. Lot line adjustments where no new building envelope is created;
34. Development proposals that involve properties less than 0.10 acres in area;
35. Subdivisions necessary to settle the estate of a decedent;
36. Applications to the Zoning Board of Adjustment for 'a' and 'b' variances under N.J.S.A. 40:55D-70;

37. Applications to the Zoning Board of Adjustment for 'c' and 'd' variances under N.J.S.A. 40:55D-70 where the application for development is exempt under any of the above listed thirty-six exemptions; and

WHEREAS, the Council issued a Resolution dated March 12, 2009 lifting the Restraint for those municipalities that submitted a petition to the Council by December 31, 2008 provided that COAH formally deemed the petition complete and the petition did not request any adjustments; and

WHEREAS, the Council has received numerous requests for waivers from the Restraint from a wireless communication service providers to construct a cell phone towers or antennas and associated equipment sheds in the Highlands Region; and

WHEREAS, all of the requests submitted to the Council have been granted, with the Council finding that the projects do not use land, water or sewer resources that would otherwise be used for the production of affordable housing; and

WHEREAS, on September 30, 2009 a task force convened to consider exempting all development applications to construct cell phone towers or antennas and related equipment sheds, not only those on existing structures; and

WHEREAS, the task force recommends that such applications should be exempt from the Scarce Resource Restraint in the Highlands and should not be required to move before Council for relief because their construction does not impact the provision of affordable housing.

NOW THEREFORE BE IT RESOLVED, that applications for the construction of cell phone towers or antennas and related equipment sheds are exempt from the November 12, 2008 Scarce Resource Restraint provided that the structures are classified as a U use group pursuant to the Uniform Construction Code (UCC); and

BE IT FURTHER RESOLVED that the Council finds that exempting cell phone towers or antennas and equipment sheds as set forth above will not use land, water or sewer resources that would otherwise be used for the production of affordable housing.

I hereby certify that this Resolution was duly adopted by the Council on Affordable Housing at its meeting on October 14, 2009

A handwritten signature in black ink, reading "Renee Reiss". The signature is written in a cursive, flowing style with large, elegant loops.

Renee Reiss  
Council Secretary